

REMARKS

Reconsideration is respectfully requested.

Entry of the above amendments is courteously requested in order to place all claims in this application in allowable condition and/or to place the non-allowed claims in better condition for consideration on appeal.

The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

Paragraphs 1 through 4 of the Office Action

Claims 4 through 7 have been rejected under 35 U.S.C. §112 (first paragraph) as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention.

Claims 4 through 7 have been rejected under 35 U.S.C. §112 (second paragraph) as being indefinite.

Claims 4 through 7 have been cancelled, and therefore the rejections are submitted to be moot.

Paragraphs 5 through 15 of the Office Action

Claim 1 has been rejected under 35 U.S.C. §102(b) as being anticipated by Brown (US 6,059,763).

Claims 2 through 3 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Brown (US 6,059,763).

Claims 1 through 3 have been cancelled, and therefore the §102(b) and §103(a) rejections of claims 1 through 3 are submitted to be moot.

Paragraphs 16 through 25 of the Office Action

Claims 4 through 9 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Brown (US 6,059,763) as applied to claims 1-3 above, further in view of Hartman (US 5,833,680).

Claims 4 through 7 and 9 have been cancelled.

Claim 8 requires "wherein the perimeter of said base panel lies

generally in a plane, and wherein portions of said base panel lateral to said upstanding member curve upwardly from the bottom side of the upstanding member such that an uppermost tip of the upstanding member lies generally in the plane of said perimeter".

The Office Action merely states with respect to this requirement (which was also in claim 9) that "absent of critical teaching and/or unexpected results, the examiner contends that the height as claimed would have been an obvious matter of design choice which does not patentably distinguish the claimed invention from the prior art invention". It is therefore apparent that these features and relationships are not found in the prior art, as no prior art was cited as teaching these relationships. Further, the prior art, and especially the Brown patent, teaches perimeters that are anything but planar, such as is shown in the Figures 1b and 7 of the Brown patent relied upon in the rejections. The Brown patent would clearly lead one toward making a portion of the perimeter extend upwardly from a remainder of the perimeter that is lower. This is also true of the Hartman reference where the ends of the perimeter are curved upwardly from the more central portions of the perimeter.

It is also submitted that the requirements of claim 8 amount to more than merely a matter of design choice. The requirement that the perimeter of the base panel lie in a plane (in combination with the concave/convex top and bottom surfaces) create a continuous barrier about the top surface that does not have gaps or other interruptions that can lead to leakage of fluids. Thus, both forward and rearward flows are blocked, as well as lateral flows, and even diagonal flows that might escape between the front and rear and side barriers of the conventional structures. Further, the upstanding member does not extend significantly through the plane of the perimeter so that a relatively compact structure is produced that is easier to package and carry. It is therefore submitted that the features and relationships required in claim 8, and especially the requirements quoted above, produce a product that is superior to the products disclosed in the

prior art, and therefore claim 8 is submitted to be patentable over the prior art.

Withdrawal of the §103(a) rejection of claim 8 is therefore respectfully requested.

VERSION WITH MARKINGS TO SHOW CHANGES MADE:

In the Claims (bracketed parts deleted and underlined parts added):

Cancel claims 1 through 7.

8. (Twice Amended) A feminine hygiene article, said article being placeable between the body of the user and undergarments worn by the user, said article comprising:

- a base panel for absorbing moisture and having opposite ends, said base panel having a top surface and a bottom surface, said base panel having a peripheral edge, a lip being coupled to and extending upwardly away from said peripheral edge, said base panel being comprised of a cotton material, said base panel having a generally rectangular shape [, said base panel having a height generally between one-half inches and three-quarter inches];
- an upstanding member for directing flow of the moisture, said upstanding member having a top side, a bottom side and a peripheral wall extending therebetween, said bottom side being fixedly coupled to said top surface of said base panel, said upstanding member being located in a central portion of said base panel, said upstanding member being elongated towards the opposite ends of the base panel, said bottom side having a longitudinal axis orientated generally parallel to a longitudinal axis of said base panel, said top side having a generally convex shape, a length of said [base] top side [having a length] being approximately twice as long as a width of said top side [, said peripheral wall having a height substantially equal to one and one-half inches]; and
- a sealing member, said sealing having a front side and a back side, said front side being fixedly coupled to said bottom surface of said base panel, said sealing member having a size and shape being substantially identical to said bottom surface of said base panel,


said sealing member comprising a plastic, said scaling member being liquid impermeable;
an adhesive member for removably attaching said sealing member to the undergarments of the user, said adhesive member being fixedly coupled to said back side of said sealing member, said adhesive member having an adhesive side being directed away from said sealing member, said adhesive member covering a substantial portion of a surface of said back side of said scaling member;
wherein the perimeter of said base panel lies generally in a plane, and wherein portions of said base panel lateral to said upstanding member curve upwardly from the bottom side of the upstanding member such that an uppermost tip of the upstanding member lies generally in the plane of said perimeter; and
wherein a height is defined between the bottom surface of said base panel and the uppermost tip of said upstanding member, and a width is defined between opposite points on said perimeter in the plane of said perimeter, and said height is approximately one-quarter of said width.

Cancel claim 9.

CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,


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Date: Sept 24, 2001